

SECTION 1

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OREGON ADMINISTRATIVE RULES

CHAPTER 250 DIVISION 14

FLOATATION ENCAPSULATION RULES

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OREGON STATE MARINE BOARD
FLOATATION ENCAPSULATION RULES
OAR 250 - DIVISION 14

Definitions:

250-14-110 For the purposes of OAR 250-14-110 to 250-14-190 the following definitions shall apply:

- (1) "Addition or Alteration" - Any change or modification to existing floating structures.
- (2) "Approved" - The items accepted and formally approved for use in waterways or marine use.
- (3) "Board" - The State Marine Board.
- (4) "Bonded" - An effective and permanent means of physical or chemical adhesion.
- (5) "Buoy" - Any public or private floating device used as a waterway marker or a sign for the purpose of a navigation aid.
- (6) "Director" - The State Marine Board Director.
- (7) "Dock" - Same as float or floating structure.
- (8) "Encapsulated or Encapsulation" - A protective covering or physical barrier between the polystyrene foam floatation and the water.
- (9) "Floats or Floating Structure" - A structure supported by polystyrene foam floatation and held in place by piling and mooring devices, including but not limited to boathouses, floating homes, marinas, and walkways, boarding floats or combination thereof, representative of one defined project.
- (10) "Fuel Floats" - Any floating structure used to dispense any form of fuel or any floating structure used to store, maintain or repair boat engines.
- (11) "Mil(s)" - One-one thousand of an inch of thickness or 0.001 of an inch.
- (12) "Maintenance and Repair" - The reconstruction or renewal of any part of an existing floating structure for the purpose of its maintenance.
- (13) "New Construction" - Any new floating structure.

- (14) "Polystyrene Foam Floatation" - All products manufactured that are expanded into polystyrene foam beads with cell diameters of 0.125" or larger used as floatation.
- (15) "Project" - means one floating structure or series of floats physically connected, which would be representative of one defined activity.
- (16) "Submersible Polystyrene Device" - Any molded or expanded type of polystyrene foam used for floatation.
- (17) "Treated Wood" - Pressure treated, dimensional wood or plywood, by a commercial supplier with preservative, that is acceptable for use in waterways as specified by the EPA.
- (18) "Waters of this state" - means all waters within the territorial limits of this state, the marginal sea adjacent to this state and the high seas when navigated as part of a journey or ride to or from the shore of this state.

Purpose and Scope:

- 250-14-120
- (1) It is the purpose of this rule to protect our waterways, fish and wildlife from polystyrene foam floatation that may escape from floating structures. It is the intent through use of appropriate encapsulation method(s) and material(s), that deterioration of polystyrene foam and resulting loss of particulate matter into waterways will be reduced or eliminated.
 - (2) These rules recognize that floating structures by their very nature are unique in design and construction methods from land structures. Nothing in this rule is intended to conflict or displace any other relevant local, state or federal; permits, regulations, or health, life and safety codes.
 - (3) The following rules shall govern the encapsulation of all submersible polystyrene devices placed on the waters of this state.
 - (4) As of January 1, 1992, no person shall install a submersible polystyrene device on a dock, buoy or float unless the device is

encapsulated by a protective covering or is designed to prevent the polystyrene from disintegrating into the waters of this state.

Materials and Methods of Encapsulation for New Construction:

250-14-130

- (1) Effective methods of encapsulation shall completely cover or be a physical barrier between the polystyrene foam floatation and the water. Small gaps up to 0.75 inch diameter ballast holes are permitted in the physical barrier or covering provided they are 0.1% or less of the square footage of the floating structure.
- (2) All materials and methods of encapsulation shall meet Environmental Protection Agency or approved material testing requirements for use and placement in waterways and must be effective for a period not less than 10 years. Any fasteners used to hold encapsulation materials together shall be effectively treated or be of such form as to reduce corrosion and decay.
- (3) Any polystyrene foam floatation or part thereof installed, removed, replaced or repaired during construction or maintenance activities must be effectively contained. All un-used or replaced polystyrene foam shall be removed from the waters of this state and disposed of in an approved manner at an upland disposal site.
- (4) The Board may approve other encapsulation materials, categories or methods, if based on their judgement it meets or exceeds the provision of this rule. The Board shall not approve or endorse specific products of any individual or firm.
- (5) The following materials or methods of encapsulation are approved:
 - (a) Treated dimensional wood, 1.5 inches (actual) or more in thickness. Non-Treated dimensional wood 4.0 inches or more in thickness and round wood logs are permitted.
 - (b) Treated plywood 0.5 inches or more in thickness. Non-Treated marine grade plywood 0.5 inches or more in thickness

is permitted.

- (c) Concrete 1.0 inch or more in thickness.
 - (d) Galvanized steel 0.065 inch or 16 gauge or more in thickness.
 - (e) Liquid coatings, 30 mils or more in thickness, chemically or securely bonded.
 - (f) Rigid (hard) plastics, 50 mils or more in thickness.
 - (g) Fiberglass and plastic resins, 30 mils or more in thickness, chemically or securely bonded.
 - (h) Pliable (soft) plastic sheets, 7 mils or more in thickness, chemically or securely bonded. Multiple layers of single plastic sheets less than 7 mils in thickness are not permitted. The process of using shrink wrap is permitted.
- (6) All fuel floats or floating structures used to store, maintain or repair boat engines shall be encapsulated with materials that are not subject to degradation by fuel oils or products.

Encapsulation Certification Form:

- 250-14-140
- (1) No person shall place any polystyrene foam floatation supporting a new construction project on the waters of the state without prior written approval by the Board.
 - (2) A Maintenance or Repair project is subject to provisions as specified in Section 250-14-150. An Alteration or Addition project is subject to provisions as specified in Section 250-14-160. Buoys and Other Floating Devices are subject to provisions as specified in Section 250-14-170.
 - (3) Applicants shall submit a completed Certification Form, for each project, to the Board for review and approval. The Certification Form shall be in such form as required by the Board. Incomplete Certification Forms will not be considered.

- (4) The applicant shall furnish information on the method(s) and material(s) used to encapsulate a floating structure and include any other information deemed necessary by the Board to ascertain compliance with this rule.
- (5) If the proposed project is found to be consistent with these rules, the Board shall give the applicant written approval.
- (6) Each approved Certification shall be valid for a period of 20 years or the useful life expectancy of the floating structure.
- (7) If the Board finds the proposed project to be inconsistent with the rules, the Board shall notify the applicant in writing of its findings. The applicant may alter, amend or modify the method(s) or material(s) used and resubmit an amended Certification Form to the Board.
- (8) Any person failing to submit a required Certification Form and who places any non-encapsulated floating structure on the waters of this state shall be found in violation of this rule and be subject to a penalty as specified in Section 250-14-190.
- (9) An approved Encapsulation Certification does not relieve the applicant from obtaining any other federal, state or local permits, licenses or approval which may be required.

Maintenance or Repair of Existing Structures:

- 250-14-150
- (1) A person may repair or maintain an existing floating structure placed on the waters of this state prior to January 1, 1992 with like materials in a like manner.
 - (2) All repair or maintenance construction activities must comply with the provisions in Section 250-14-130 (3).
 - (3) Any repairs or maintenance requiring the replacement of more than 10% in square footage of a floating structure shall comply to provisions as specified in the New Construction Section 250-14-130.

Alteration or Addition of Existing Facilities:

- 250-14-160 (1) Any Alteration or addition of an existing floating structure which leads to an increase in the square footage of that floating structure, must comply with the provisions as specified in the New Construction Section 250-14-130.

Buoys and Other Floating Devices:

- 250-14-170 (1) All polystyrene foam private or public buoys, markers, ski floats, bumpers, fish trap markers or similar devices shall be encapsulated in accordance with the New Construction Section 250-14-130.
- (2) An Encapsulation Certification Form is not required for this section.

Exemptions:

- 250-14-180 (1) This rule does not apply to construction, maintenance or operation of boats or vessels.
- (2) Any polystyrene foam device manufactured into extruded closed cell beads 0.125 inch or smaller, approved for marine use, are exempt.
- (3) No exemptions shall apply to any polystyrene foam device used to support fuel floats, docks, or floating structures used to store, maintain or repair boat engines. These structures must comply with New Construction Section 250-14-130.

Inspection and Penalties:

- 250-14-190 (1) The Board and all peace officers shall be responsible for the enforcement of these rules and, upon proper and reasonable notification to the owner of any structure, float or like device, may board and conduct an inspection to ascertain compliance with these rule.
- (2) The Director may order any person in violation of this rule to perform reasonable corrective actions in a timely manner.
- (3) Any person who violates this rule commits a Class A misdemeanor, ORS 830.990.

OREGON STATE MARINE BOARD POLICY-PROCEDURES

SUBJECT: Floatation Encapsulation Rules - Maintenance and Repair

AUTHORITY: ORS 830.110, 990
OAR 250-14-010 through 090

APPROVED BY Paul Donheffner
Paul Donheffner, Director

EFFECTIVE DATE: 08/10/92

Definitions:

"Addition or Alteration" - Any change or modification to existing floating structures.

"Board" - The State Marine Board.

"Floats or Floating Structure" - A structure supported by polystyrene foam floatation and held in place by piling and mooring devices, including but not limited to boathouses, floating homes, marinas, and walkways, boarding floats or combination thereof, representative of one defined project.

"Maintenance and Repair"- The reconstruction or renewal of any part of an existing floating structure for the purpose of its maintenance.

"Polystyrene Foam Floatation" - All products manufactured that are expanded into polystyrene foam beads with cell diameters of 0.125" or larger used as floatation.

"Project" - Means one floating structure or series of floats physically connected, which would be representative of one defined activity.

Applicable Situations

Maintenance and Repair of all floating structures:

Existing - were built before January 1, 1992 and involve the replacement of 10% or more of the foam used to support the floating structure; and

New - were built after January 1, 1992 and involve any replacement, repair, maintenance, alteration or addition to any floating structure.

Policy Concepts

The following policies apply to the above situations:

- (1) An Encapsulation Certification Form is required for:

Existing - any alteration or addition which leads to an increase in square footage of the floating structure shall be calculated by the volume (cubic ft.) of foam used to support the floating structure. Up to 10% in cubic footage of the foam used to support the floating structure can be replaced within a 12 month period without a Certification Form; or

any alteration or addition 10% or greater in cubic footage of foam used to support the floating structure requires a Certification Form.

New - all maintenance, repair, replacement, alteration and additions to foam used to support new floating structures placed in the waters of the state after January 1, 1992 must be encapsulated according to New Construction Section 250-14-030.

Procedures

Existing - If the floating structure was placed in the waters of the state before January 1, 1992 and the owner plans to repair, maintain, replace, add or alter the polystyrene foam floatation they must:

- (1) Determine the volume (cubic ft.) of foam used to support the entire structure; and
 - if the project consists of replacing or adding 10% or greater in volume of foam, an Encapsulation Certification Form is required and must be encapsulated according to New Construction Section 250-14-030,
 - if the project consists of replacing or adding less than 10% of the volume of foam, an Encapsulation Certification Form is not required. The foam may be replaced with like materials in a like manner.

(2) Within the period of one year;

- the owner may replace or add up to 10% in volume of foam (cubic ft.) without a Certification Form; or
- the owner may replace or add 10% or greater in volume of foam (cubic ft.) is required to submit an Encapsulation Certification Form.

New - If the floating structure was placed in the waters of the state after January 1, 1992, the foam floatation must be encapsulated according to New Construction Section 250-14-030 and an Encapsulation Certification Form is required.

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